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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,839	03/15/2004	Pedro Leite de Barros JR.	033794/275698	1527

26096 7590 09/06/2006

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EXAMINER

TRAN, HANH VAN

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/800,839	DE BARROS	
	Examiner	Art Unit	
	Hanh V. Tran	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,13,14 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,13,14 and 19-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 6/22/2006.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 4-5, 19-21, 25, and 28-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 4 and 5, the recitation "overlapping arrangement" is vague and indefinite for failing to clearly define the metes and bounds of the claimed invention of what is an "overlapping" arrangement, i.e., the first and second supports each having a portion directly rests on top of each other, or each being placed at a distance having one above the other? Regarding claim 19, since claim 13, lines 4-5 only functionally recited the structural element, i.e., "adapted to separate the vehicle component from at least one of a structural element and another vehicle component", the positive recitation in claim 19, lines 1-2 of "wherein the structural element comprises a common base structure....support members that are each supported by the common base structure in a generally parallel arrangement" renders the claim indefinite, since it is not clear whether applicant's intent is to claim the structural element in combination with the support members or just the support members per se (the structural element is only functionally recited in the claim). Regarding claims 25 and 28, the preamble of claim 22 clearly indicates that a tray

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apparatus is being claimed and the wheel components are only functionally recited; therefore, the positive recitation of the wheel components in claims 25 and 28 renders the respectively claim indefinite for failing to clearly define whether applicant's intent is to claim the wheel component in combination with the support members or just the support member per se (the wheel component is being only functionally recited in the claim).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-2, 4-6, 13-14, and 19-30 are rejected under 35 U.S.C. 102(e) as being anticipated by USP 6,484,877 to Murakami et al.

Murakami et al discloses a transportable assembly comprising all the elements recited in the above listed claims including, such as shown in Fig 17, at least one vehicle component, a substantially planar structural member, a plurality of elongated first support members, each comprising a discrete rectangular plate having a length that is substantially greater than a width, such as shown in Fig 17, and capable of being operably engaged with the structural member so as to be supported thereby; a plurality of first guide-and-positioning elements, each operably engaged with each support

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member, the respective first guide-and-positioning elements being configured to cooperate to define a first accommodation region therebetween for receiving one side of a first of the at least one vehicle component when the support members are disposed in an overlapping arrangement with respect to each other, such as shown in Fig 7; a plurality of elongated second support members each having opposing sides and capable of separating the first vehicle component from a second of the at least one vehicle component so as to prevent damage to the respective vehicle components, such as shown in Fig 8-10; a plurality of second guide-and-positioning elements, each comprising a discrete rectangular plate having a length that is substantially greater than a width and operably engaged with each side of each second support member, the respective second guide-and-positioning elements on one side of the second support members being configured to cooperate to define a second accommodation region therebetween for receiving the other side of the first vehicle component, and the respective second guide-and-positioning elements on the other side of the second support members being configured to cooperate to define a third accommodation region therebetween capable of receiving one side of the second vehicle component, when the second support members are disposed in an overlapping arrangement with respect to each other and the first support members, the accommodation regions cooperating so as to constrain lateral movement of the vehicle components with respect to the support members, and thereby allowing the vehicle objects to be packaged in a side-to-side relation, wherein the first support members are integral with the structural member such that the respective first guide-and-positioning elements extend from the structural

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member and define the first accommodation region therebetween, wherein the first and second support members 1a-b are each configured as substantially rectangular plate, the guide-and-positioning elements are each configured as an arcuate projection/semi-circular depression extending from the respective support member and defining a concave area being disposed in opposing relation to define the corresponding accommodating region when the respective support members are disposed in the overlapping arrangement.

In regard to the functional recitation of “adapted to”, it has been held that the recitation that an element is “adapted to” perform a function is not a positive limitation but only requires the ability to so perform, and the support members and the guide-and-positioning elements of Murakami et al certainly have the ability to perform said functional recitation in the claims.

Response to Arguments

6. Applicant's arguments filed 6/22/2006 have been fully considered but they are not persuasive. In response to applicant's argument on page 8 that Murakami does not disclose each support member is a rectangular plate that has a length substantially greater than a width of the plate, the examiner takes the position that Fig 17 of Murakami clearly shows two support members 1a-b each being a rectangular plate that has a length substantially greater than a width of the plate.

7. In response to applicant's argument on page 8 that Murakami does not disclose the guide-and-positioning element is adapted to receive only one side of a vehicle component, the examiner takes the position that the functional recitation of “adapted to”

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is not a positive limitation but only requires the ability to so perform, and the support members and guide-and-positioning of Murakami et al certainly have the ability to perform said functional recitation in the claims.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT *HVT*
September 1, 2006

LANNA MAI
SUPERVISORY PATENT EXAMINER
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